[APPELLATE CIVIL JURISDICTION]
MURRAY-AYNESLEY, J.
September 26, 1938.

HAJI OSMAN BIN HAJI SEDIK

v.

NG AH SIEW.

[PERAK CIVIL APPEAL No. 28 of 1938]

Civil Procedure Code, s. 283 (1) (c)— "agriculturist."

The appellant was the owner of about 25 or 30 acres of land of which about 14 acres were charged in favour of and were in the occupation of the respondent. The remaining 10 acres or so were planted in coconuts and rubber by the appellant with the assistance of members of his family and occasional hired labour. The appellant did not appear to have any other form of livelihood.

Held, that the appellant was an "agriculturist" within the meaning of section 283 (1) (c) of the Civil Procedure Code.

S. V. R. Y. Somasundaram Chettiar v. *Ong Yeo Seng & ors.*, (1931—1932) F.M.S.L.R. 295; (1932) 1 M.L.J. 113 referred to.

MAGISTRATE'S CIVIL APPEAL.

M. S. Mahendran for the Appellant.

John L. Woods for the Respondent.

Cur. Ad. Vult.

MURRAY-AYNESLEY—This Appeal raises a short point on the interpretation of section 283 (1) (c) of the Civil Procedure Code namely whether the Appellant is an Agriculturist within the meaning of that sub-section. It appears that the Appellant owns about 25 or 30 acres of land, of this about 14 acres have been charged to the Respondent and are in the occupation of the latter. The remaining 10 acres or so are planted in coconuts and rubber by the Appellant with the assistance of members of his family and occasional hired labour. It does not appear that the Appellant has any other form of livelihood. The question is whether the Appellant can in these circumstances be described as an agriculturist.

In ordinary English language there is nothing which could restrict the meaning of the word to the smaller forms of rural exploitation, in fact rather the contrary. Indian Courts on the legislation of which country local provision is based, have adopted a special meaning in interpreting the corresponding Indian provision limiting its application to the small peasant cultivation of that country, described under the generic term of ryot.

In the Judgment of Burton, J. in the Johore case (1931—2 F.M.S.L.R. p. 295) a restrictive meaning is based on the use of the word agriculturist coupled with artisan in para, (6) of the same subsection. I regard this type of interpretation as speculative and dangerous where the legislature has used a word of general meaning. Its unsatisfactory character is shown by the fact that Burton J. seemed to consider that a person might cease to be an agriculturist as the price of rubber rose and *vice versa*.

The so-called principle of *noscitur a sociis* like the *ejusdem generis* rule is now out of favour.

However in the present case even if a restricted meaning were to be adopted, I do not consider that a person with a holding like the present one would cease to be *ejusdem generis* with an artisan.

Many artisans employ hired labour and provided that a person is what would be called in some parts of England a "working farmer" the fact that he depends to a certain extent on hired labour would not prevent him from being an agriculturist even if the meaning of that word be restricted as has been done in India and by Burton J. and Whitley J. in the Johore case.

It was conceded by Mr. Woods for the Respondent that this case is not affected by the fact that this is an attachment before Judgment.

The appeal must be allowed with costs.

Appeal allowed.

KEDAH REPORT.

[APPELLATE CIVIL JURISDICTION]
McELWAINE C.J., (S.S.), HALL C.J., (F.M.S.) AND HOWES, J.
March 13, 1938.

THE ESTATE AND TRUST AGENCIES (1927) LIMITED.....Plaintiffs (Respondents)

Vs.

1. CHANG KIAM HOE ALIAS THIO NGHEAN LEONG
2. THONG SIEW MEE (f) THE ADMINISTRATRIX OF THE ESTATE OF TAN TAY PO ALIAS CHIN KIM PO ALIAS CHAN KAM PO
3. CHEW TUNG SENG

} Defendants.

4. A. M. NACHIAPPA CHETTY
5. LIM SAW KEAT NEOH

} Appellants

[KEDAH CIVIL APPEAL No. 2 of 1356]

Practice—withdrawal of appeal—revocation of withdrawal.

After an appeal had been set down for hearing, the appellants were advised not to proceed with it but to commence a new suit claiming certain reliefs. The appel-